

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

PCT

To:

see form PCT/ISA/220

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/JP2004/001934

International filing date (day/month/year)
19.02.2004

Priority date (day/month/year)
21.02.2003

International Patent Classification (IPC) or both national classification and IPC
G06F21/00

Applicant
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1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☒ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

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**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/JP2004/001934

Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
☐ a sequence listing
☐ table(s) related to the sequence listing
 - b. format of material:
☐ in written format
☐ in computer readable form
 - c. time of filing/furnishing:
☐ contained in the international application as filed.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/JP2004/001934

Box No. II Priority

1. ☒ The following document has not been furnished:

- ☒ copy of the earlier application whose priority has been claimed (Rule 43*bis*.1 and 66.7(a)).
- ☐ translation of the earlier application whose priority has been claimed (Rule 43*bis*.1 and 66.7(b)).

Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date is the claimed priority date.

2. ☐ This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43*bis*.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.

3. Additional observations, if necessary:

Box No. V Reasoned statement under Rule 43*bis*.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	1-23
	No: Claims	
Inventive step (IS)	Yes: Claims	
	No: Claims	1-23
Industrial applicability (IA)	Yes: Claims	1-23
	No: Claims	

2. Citations and explanations

see separate sheet

1 The following documents are referred to in this communication:

D1 : US 6 094 723 A (OTSUKA SATOSHI) 25 July 2000 (2000-07-25)

D2 : WORLD NEWS, [Online] vol. 11, no. 5, November 2002 (2002-11), XP002288817

Retrieved from the Internet: URL: <http://www.semiconductors.com/publications/worldnews/11.5.pdf> [retrieved on 2004-07-16]

2 INDEPENDENT CLAIM 1

The present application does not meet the criteria of Article 33(1) PCT, because the subject matter of claim 1 does not involve an inventive step in the sense of Article 33(3)PCT:

Document D1, which is considered to represent the most relevant state of the art to the subject matter of claim 1, discloses [the references in brackets applying to this document]:

A software-management system comprising a recording medium and an information device, the recording medium including:

a normal storage unit having stored therein software that is computer data [column 3, lines 40-42, figure 1];

a secure storage unit not directly accessible from outside, and having stored therein license information relating to a usage condition of the software [column 16, line 58-59, column 18, line 21]; and

a tamper-resistant module operable to judge, based on the license information, whether an operation, being one of installing software on the information-processing device and deactivating installed software, is permitted [the install control means, column 1, lines 51-59, column 22, lines 18-19],

and when judged in the affirmative, to output to the information-processing device an instruction showing that the operation is permitted,

and to rewrite the license information in accordance with the operation [figure 16, step f107 and f109],

and the information-processing device including:

a receiving unit operable to receive the instruction from the recording medium (the install control means are recorded on the medium [column 1, lines 40-42] in order to be executed they are read using the recording and reproduction apparatus) ;
and

a control unit operable to perform, in accordance with the received instruction, one of (i) receiving software from the recording medium and installing the received software in the information-processing device [figure 16] and (ii) deactivating installed software [column 1, lines 60-65]

The subject-matter of independent claim 1 differs from the disclosure of D1 in that the tamper resistant module on the recording medium is operable to judge whether the installation of the software is permitted.

The problem to be solved by the present invention may therefore be regarded as increasing security by avoiding to send the installation control program and the installation counter over a communication channel to a terminal allowing a malicious third party to alter one of them.

In view of D2 the solution proposed in claim 1 of the present application cannot be considered as involving an inventive step (Article 33(3) PCT) since D2 solves the problem in the same way as featured in claim 1 of the application. The installation control program is executed on the tamper resistant recording medium [page 6, 3rd article "SmartXA provides...", 3rd paragraph].

The features disclosed in D1 and D2 would be combined by the skilled person, without exercise of any inventive skills in order to solve the problem posed. The proposed solution in independent claim 1 thus cannot be considered inventive (Article 33(3) PCT).

- 3 Since the subject-matter of each of independent claims 5, 15, 18, 19, 21, 22 corresponds to the subject matter of at least one of claims 1, 18, the same reasoning as given for claims 1, 18 will apply mutatis mutandis. Therefore claims 5, 15, 19, 21, 22 also do not meet the requirements of the PCT in respect of inventive step (Article 33(3) PCT).

4 DEPENDENT CLAIMS 2-4, 6-14, 16, 17, 20, 23

Dependent claims 2-4, 6-14, 16, 17, 20, 23 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect to inventive step (Article 33(3) PCT).